

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY JACKSON SEELEY,

Plaintiff, No. CIV S-04-1800 DFL CMK P

vs.

THERESA A. SCHWARTZ, et al.,

Defendants. ORDER

On June 24, 2005, the Magistrate Judge issued an order denying without prejudice plaintiff's June 14, 2005 "motion for leave for extension of time." The Magistrate Judge also denied without prejudice plaintiff's June 28, 2005 "opposition to motion to dismiss CC-II Cry as a defendant." On July 28, 2005, plaintiff filed a request for reconsideration of these orders.

Local Rule 72-303(b), states "rulings by Magistrate Judges shall be final if no reconsideration thereof is sought from the Court within ten court days . . . from the date of service of the ruling on the parties." E.D. Local Rule 72-303(b). Therefore, plaintiff's request for reconsideration of the magistrate judge's order of June 24, 2005 is untimely.

As for plaintiff's June 28, 2005 motion, the court finds that the Magistrate Judge's July 28, 2005 order denying that motion is not "clearly erroneous or contrary to law." E.D. Local Rule 72-303(f). However, it appears that plaintiff has now remedied his error in failing to serve his opposition properly. Therefore, plaintiff's motion for reconsideration is granted to the extent that

1 the Magistrate Judge shall consider plaintiff's opposition in resolving defendants' pending  
2 motion to dismiss unless defendants bring additional facts to the attention of the Magistrate  
3 Judge showing that proper service has not been made.

4 DATED: 8/22/2005

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7 DAVID F. LEVI  
8 United States District Judge